

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

A. NISAR AKBAR, et al.,

Plaintiffs,

v.

Case No.: 2:15-CV-12688

SHAUkat BANGASH, et al.,

Hon. Mark A. Goldsmith
Magistrate David Grand

Defendants.

/

**PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO DESIGNATE
DEFENDANTS' PRODUCTION IN RESPONSE TO COURT'S AUGUST
16, 2018 ORDER AS CONFIDENTIAL AND SUBJECT TO ATTORNEYS'
EYES ONLY DESIGNATION**

NOW COME Plaintiffs, by and through undersigned counsel, and for their Response to Defendants' Motion to Designate Defendants' Production in Response to Court's August 16, 2018 Order As Confidential and Subject to Attorneys' Eyes Only Designation, hereby states as follows:

1. Plaintiffs respectfully request this Honorable Court deny Defendants' Motion to designate their supplemental production in response to the Court's August 16, 2018 Order as "Confidential" and restricted to disclosure.
2. Defendants violated this Court's August 23, 2017 Order [Dkt. # 100] by failing to obtain leave from the Court prior to filing its non-dispositive motion and failing to wait three business days after seeking concurrence from

Plaintiffs before filing. Defendants admit they sought concurrence on the morning of August 31, 2018 and filed their motion on the same day at 3:44 P.M. (EST).

3. On August 16, 2018, this Court entered an Order [Dkt. No. 159] compelling Defendants to turn over the SECP Report and other related documents requested by Plaintiffs in discovery by September 1, 2018. It has been 27 days since the Court **compelled** Defendants to turn over the documents, and Defendants have yet to do so.
4. The Court Order did not place any preconditions on Defendants requirement to turn over the subject documents. Nevertheless, Defendants completely disregarded the Court's Order by refusing to turn over the documents and requesting that the Court render the documents "attorneys' eyes only."
5. Defendants argue the SECP Report is labeled "Strictly Confidential" and therefore, should be limited to attorneys' eyes only. First, Plaintiffs have not seen the SECP Report, and therefore, cannot confirm the accuracy of Defendants' statement. Nevertheless, Defendants' Supplemental Brief in Opposition to Plaintiffs' Motion to Compel, explicitly states that the SECP report is public information in Pakistan. [Doc # 156, Page ID #6811]. Therefore, even if the report is marked "strictly confidential," it is now public

information in Pakistan, and therefore, has lost its “strictly confidential” status.

6. Defendants’ Motion is in effect a supplement to their Response to Plaintiffs’ Motion for Relief from Protective Order. [Dkt. # 163]. As noted by the Court during the most recent telephonic conference on September 18, 2018, Defendants lack a legitimate secrecy interest in preventing the disclosure of documents. Plaintiffs do not seek to provide the information to Defendants’ competitors, but instead, to relevant regulatory agencies, namely, the Internal Revenue Service, the Federal Bureau of Investigation, and the Security and Exchange Commission. Furthermore, as outlined in Plaintiffs’ Motion for Relief from Protective Order [Dkt. # 158], it is improper to use the Protective Order as a shield against a claim from a regulatory agency.

7. Defendants further rely on the caselaw and facts outlined in its Motion for Relief from Protective Order [Dkt. # 158] in support of this Motion.

8. Defendants have repeatedly and deliberately ignored this Court’s Orders.

This unacceptable behavior must come to an end.

WHEREFORE, Plaintiffs respectfully request this Honorable Court DENY Defendants’ frivolous Motion to Designate Defendants’ Production in Response to Court’s August 16, 2018 Order as Confidential and Subject to Attorneys’ Eyes Only

Designation, in addition to such other and further relief as this Court deems just and proper under the circumstances.

Respectfully submitted,

HAMMOUD DAKHLALLAH
& ASSOCIATES, PLLC

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Date: September 27, 2018

CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2018, I electronically filed the foregoing paper with the clerk of the Court using the ECF system which will send notification of such filing to counsel of record.

/s/ Mohamed A. Nehme
Mohamed A. Nehme (P79466)
Attorneys for Plaintiff